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#### United States of America: draft articles for a chapter on the economic zone and the continental shelf\*

#### PART I. THE ECONOMIC ZONE

##### A. Coastal State Jurisdiction

##### Article 1. General

1. The coastal State exercises in and throughout an area beyond and adjacent to its territorial sea, known as the economic zone, the jurisdiction and the sovereign and exclusive rights set forth in this chapter for the purpose of exploring and exploiting the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superjacent waters.

2. The coastal State exercises in the economic zone the other rights and duties specified in this Convention, including those with regard to the protection and preservation of the marine environment and the conduct of scientific research.\*\*

3. The exercise of these rights shall be in conformity with and subject to the provisions of this Convention, and shall be without prejudice to the provisions of part III of this chapter.

##### Article 2. Limits

The outer limit of the economic zone shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

\* These articles, which are presented as a basis for negotiation subject to agreement on other basic questions of the law of the sea, replace in their entirety draft articles on fisheries and the coastal sea-bed economic area contained in documents A/AC.138/SC.II/L.9 /Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721, pp. 175-179) and A/AC.138/SC.II/L.35, ibid., Twenty-eighth Session, Supplement No. 21 (A/9021, vol. III, pp. 75-77)].

\*\* Detailed provisions on these subjects are to be set forth in the chapters of the Convention on scientific research and pollution.

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### Article 3. Artificial Islands and Installations

1. The coastal State shall have the exclusive right to authorize and regulate, in the economic zone, the construction, operation and use of artificial islands and installations for the purpose of exploration or exploitation of natural resources, or for other economic purposes, and of any installation which may interfere with the exercise of the rights of the coastal State in the economic zone.

2. The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation.

3. The provisions of article 28 shall apply, mutatis mutandis, to such artificial islands and installations.

### Article 4. Drilling

The coastal State shall have the exclusive right to authorize and regulate drilling for all purposes in the economic zone.

### Article 5. Right to Protect the Marine Environment

In exercising its rights with respect to installations and sea-bed activities in the economic zone, the coastal State may establish standards and requirements for the protection of the marine environment additional to or more stringent than those required by applicable international standards.

### Article 6. Coastal State Measures

With respect to activities subject to its sovereign or exclusive rights, the coastal State may take such measures in the economic zone as may be necessary to ensure compliance with its laws and regulations in conformity with the provisions of this Convention.

### B. International Standards and Duties

### Article 7. Navigation, Overflight, and Other Rights

Nothing in this chapter shall affect the rights of freedom of navigation and overflight, and other rights recognized by the general principles of international law, except as otherwise specifically provided in this Convention. The provisions of this article do not apply to activities for which the authorization of the coastal State is required pursuant to this Convention.

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Article 8. Unjustifiable Interference

1. The coastal State shall exercise its rights and perform its duties in the economic zone without unjustifiable interference with navigation or other uses of the sea, and ensure compliance with applicable international standards established by the appropriate international organizations for this purpose.

2. In exercising their rights, States shall not unjustifiably interfere with the exercise of the rights or the performance of the duties of the coastal State in the economic zone.

Article 9. Duty to Protect the Marine Environment

In exercising its rights with respect to installations and sea-bed activities, the coastal State shall take all appropriate measures in the economic zone for the protection of the marine environment from pollution, and ensure compliance with international minimum standards for this purpose established in accordance with the provisions of chapter \_\_\_\_ (pollution).

Article 10. Dispute Settlement

Any dispute with respect to the interpretation or application of this chapter shall, if requested by any party to the dispute, be resolved by the compulsory dispute settlement procedures contained in chapter \_\_\_\_.

## PART II. FISHERIES

### Article 11. General

The coastal State exercises exclusive rights for the purpose of regulating fishing within the economic zone, subject to the provisions of these articles.

### Article 12. Conservation

1. The coastal State shall ensure the conservation of renewable resources within the economic zone.
2. For this purpose, the coastal State shall apply the following principles:
  - (a) allowable catch and other conservation measures shall be established which are designed, on the best evidence available to the coastal State, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, taking into account relevant environmental and economic factors, and any generally agreed global and regional minimum standards;
  - (b) such measures shall take into account effects on species associated with or dependent upon harvested species and at a minimum, shall be designed to maintain or restore populations of such associated or dependent species above levels at which they may become threatened with extinction;
  - (c) for this purpose, scientific information, catch and fishing effort statistics, and other relevant data shall be contributed and exchanged on a regular basis;
  - (d) conservation measures and their implementation shall not discriminate in form or fact against any fisherman. Conservation measures shall remain in force pending the settlement, in accordance with the provisions of chapter \_\_\_\_, of any disagreement as to their validity.

### Article 13. Utilization

1. The coastal State shall ensure the full utilization of renewable resources within the economic zone.
2. For this purpose, the coastal State shall permit nationals of other States to fish for that portion of the allowable catch of the renewable resources not fully utilized by its nationals, subject to the conservation measures adopted pursuant to article 12, and on the basis of the following priorities:
  - (a) States that have normally fished for a resource, subject to the conditions of paragraph 3;
  - (b) States in the region, particularly land-locked States and States with limited access to living resources off their coast; and
  - (c) all other States.

The coastal State may establish reasonable regulations and require the payment of reasonable fees for this purpose.

3. The priority under paragraph 2 (a) above shall be reasonably related to the extent of fishing by such State. Whenever necessary to reduce such fishing in order to accommodate an increase in the harvesting capacity of a coastal State, such reduction shall be without discrimination, and the coastal State shall enter into consultations for this purpose at the request of the State or States concerned with a view to minimizing adverse economic consequences of such reduction.

4. The coastal State may consider foreign nationals fishing pursuant to arrangements under articles 14 and 15 as nationals of the coastal State for purposes of paragraph 2 above.

#### Article 14. Neighbouring Coastal States

Neighbouring coastal States may allow each others' nationals the right to fish in a specified area of their respective economic zones on the basis of reciprocity, or long and mutually recognized usage, or economic dependence of a State or region thereof on exploitation of the resources of that area. The modalities of the exercise of this right shall be settled by agreement between the States concerned. Such right cannot be transferred to third parties.

#### Article 15. Land-locked States

Nationals of a land-locked State shall enjoy the privilege to fish in the neighbouring area of the economic zone of the adjoining coastal State on the basis of equality with the nationals of that State. The modalities of the enjoyment of this privilege shall be settled by agreement between the parties concerned.

#### Article 16. International Co-operation Among States

1. States shall co-operate in the elaboration of global and regional standards and guidelines for the conservation, allocation, and rational management of living resources directly or within the framework of appropriate international and regional fisheries organizations.

2. Coastal States of a region shall, with respect to fishing for identical or associated species, agree upon the measures necessary to co-ordinate and ensure the conservation and equitable allocation of such species.

3. Coastal States shall give to all affected States timely notice of any conservation, utilization and allocation regulations prior to their implementation, and shall consult with such States at their request.

#### Article 17. Assistance to Developing Countries

An international register of independent fisheries experts shall be established and maintained by the Food and Agricultural Organization of the United Nations. Any developing State party to the Convention desiring assistance may select an appropriate number of such experts to serve as fishery management advisers to that State.

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Article 18. Anadromous Species

1. Fishing for anadromous species seaward of the territorial sea (both within and beyond the economic zone) is prohibited, except as authorized by the State of origin in accordance with articles 12 and 13.

2. States through whose internal waters or territorial sea anadromous species migrate shall co-operate with the State of origin in the conservation and utilization of such species.

Article 19. Highly Migratory Species

Fishing for highly migratory species shall be regulated in accordance with the following principles:

A. Management. Fishing for highly migratory species listed in Annex A within the economic zone shall be regulated by the coastal State, and beyond the economic zone by the State of nationality of the vessel, in accordance with regulations established by appropriate international or regional fishing organizations pursuant to this article.

(1) All coastal States in the region, and any other State whose flag vessels harvest a species subject to regulation by the organization, shall participate in the organization. If no such organization has been established, such States shall establish one.

(2) Regulations of the organization in accordance with this article shall apply to all vessels fishing the species regardless of their nationality.

B. Conservation. The organization shall, on the basis of the best scientific evidence available, establish allowable catch and other conservation measures in accordance with the principles of article 12.

C. Allocation. Allocation regulations of the organization shall be designed to ensure full utilization of the allowable catch and equitable sharing by member States.

(1) Allocations shall take into account the special interests of the coastal State within whose economic zone highly migratory species are caught, and shall for this purpose apply the following principles within and beyond the economic zone:  
[Insert appropriate principles].

(2) Allocations shall be designed to minimize adverse economic consequences in a State or region thereof.

D. Fees. The coastal State shall receive reasonable fees for fish caught by foreign vessels in its economic zone, with a view to making an effective contribution to coastal State fisheries management and development programmes. The organization shall establish rules for the collection and payment of such fees, and shall make appropriate arrangements with the coastal State regarding the establishment and application of such rules. In addition, the organization may collect fees on a non-discriminatory basis based on fish caught both within and outside the economic zone for administrative and scientific research purposes.

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E. Prevention of Interference. The organization shall establish fishing regulations for highly migratory species in such a way as to prevent unjustifiable interference with other uses of the sea, including coastal State fishing activities, and shall give due consideration to coastal State proposals in this regard.

F. Transition. Pending the establishment of an organization in accordance with this article, the provisions of this article shall be applied temporarily by agreement among the States concerned.

G. Interim Measures. If the organization or States concerned are unable to reach agreement on any of the matters specified in this article, any State party may request, on an urgent basis, pending resolution of the dispute, the establishment of interim measures applying the provisions of this article pursuant to the dispute settlement procedures specified in chapter \_\_\_\_\_. The immediately preceding agreed regulations shall continue to be observed until interim measures are established.

#### Article 20. Marine Mammals

Notwithstanding the provisions of this chapter with respect to full utilization of living resources, nothing herein shall prevent a coastal State or international organization, as appropriate, from prohibiting the exploitation of marine mammals.

#### Article 21. Enforcement

1. The coastal State may, in the exercise of its rights under this chapter with respect to the renewable natural resources, take such measures, including inspection and arrest, in the economic zone, and, in the case of anadromous species, seaward of the economic zones of the host State and other States, as may be necessary to ensure compliance with its laws and regulations, provided that when the State of nationality of a vessel has effective procedures for the punishment of vessels fishing in violation of such laws and regulations, such vessels shall be delivered promptly to duly authorized officials of the State of nationality of the vessel for legal proceedings, and may be prohibited by the coastal State from any fishing in the zone pending disposition of the case. The State of nationality shall within six months after such delivery notify the coastal State of the disposition of the case.

2. Regulations adopted by international organizations in accordance with Article 1 shall be enforced as follows:

(a) Each State member of the organization shall make it an offence for its flag vessels to violate such regulations, and shall co-operate with other States in order to ensure compliance with such regulations.

(b) The coastal State may inspect and arrest foreign vessels in the economic zone for violating such regulations. The organization shall establish procedures for arrest and inspection by coastal and other States for violations of such regulations beyond the economic zone.

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(c) An arrested vessel of a State member of the organization shall be promptly delivered to the duly authorized officials of the flag State for legal proceedings if requested by that State.

(d) The State of nationality of the vessel shall notify the organization and the arresting State of the disposition of the case within six months.

3. Arrested vessels and their crew shall be entitled to release upon the posting of reasonable bond or other security. Imprisonment or other forms of corporal punishment in respect of conviction for fishing violations may be imposed only by the State of nationality of the vessel or individual concerned.



### PART III. THE CONTINENTAL SHELF

#### Article 22. General

1. The coastal State exercises sovereign rights over the continental shelf for the purpose of exploring and exploiting its natural resources.

2. The continental shelf is the sea-bed and subsoil of the submarine areas adjacent to and beyond the territorial sea to the limit of the economic zone or, beyond that limit, throughout the submerged natural prolongation of the land territory of the coastal State to the outer limit of its continental margin, as precisely defined and delimited in accordance with article 23.

3. The provisions of this article are without prejudice to the question of delimitation between adjacent and opposite States.

#### Article 23. Limits

(Provisions are needed for locating and defining the precise limit of the continental margin, and to provide a precise and permanent boundary between coastal State jurisdiction and the international sea-bed area.)

#### Article 24. Natural Resources

The natural resources referred to in article 22 consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

#### Article 25. Superjacent Waters

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters, or that of the air space above those waters.

#### Article 26. Application of Economic Zone Provisions

The provisions of part 1 of this chapter shall apply, mutatis mutandis, to the sea-bed and subsoil of the continental shelf.

#### Article 27. Duties with Respect to Non-Renewable Resources

In the exercise of its rights with respect to the non-renewable resources of the continental shelf, the coastal State:

(a) shall comply with legal arrangements which it has entered into with other contracting States, their instrumentalities, or their nationals in respect to the exploration or exploitation of such resources and shall not take property of such States, instrumentalities or nationals except for a public purpose on a non-discriminatory basis and with adequate provisions at the time for prompt payment of just compensation in an effectively realizable form, and

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(b) shall pay, in respect of the exploitation of such non-renewable resources seaward of the territorial sea or the 200-metre isobath, whichever is farther seaward (insert formula), to be used as specified in article \_\_\_\_\_, for international community purposes, particularly for the benefit of developing countries.

#### Article 28. Installations

1. The coastal State shall have the exclusive right to authorize and regulate on the continental shelf the construction, operation and use of artificial islands and installations for the purpose of exploration or exploitation of natural resources or for other economic purposes, and of any installation which may interfere with the exercise of the rights of the coastal State.

2. The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation. Such safety zones shall be designed to ensure that they are reasonably related to the nature and function of the installation. Ships of all nationalities must respect these safety zones.

3. The breadth of the safety zones shall be determined by the coastal State and shall conform to applicable international standards in existence or to be established by the Inter-Governmental Maritime Consultative Organization regarding the establishment and breadth of safety zones. In the absence of such additional standards, safety zones around installations for the exploration and exploitation of non-renewable resources of the sea-bed and subsoil may extend to a distance of 500 metres around the installations, measured from each point of their outer edge.

4. Due notice must be given of the construction of any such installations and the extent of safety zones, and permanent means for giving warning of the presence of such installations must be maintained. Any such installations which are abandoned or disused must be entirely removed.

5. States shall ensure compliance by vessels of their flag with applicable international standards regarding navigation outside the safety zones but in the vicinity of such off-shore installations.

6. Installations and safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

7. For the purpose of this section, the term "installations" refers to artificial off-shore islands, facilities, or similar devices, other than those which are mobile in their normal mode of operation at sea. Installations shall not afford a basis for a claim to a territorial sea or economic zone, and their presence does not affect the delimitation of the territorial sea or economic zone of the coastal State.

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Article 29. Submarine Cables and Pipelines

1. Subject to its right to take reasonable measures for the exploration and exploitation of the natural resources of the continental shelf, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

2. Nothing in this article shall affect the jurisdiction of the coastal State over cables and pipelines constructed or used in connexion with the exploration or exploitation of its continental shelf or the operations of an installation under its jurisdiction, or its right to establish conditions for cables or pipelines entering its territory or territorial sea.

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ANNEX A

HIGHLY MIGRATORY SPECIES

1. Albacore Tuna
  2. Bluefin Tuna
  3. Bigeye Tuna
  4. Skipjack Tuna
  5. Yellowfin Tuna
  6. Pomfrets
  7. Marlin
  8. Sailfishes
  9. Swordfish
  10. Sauries
  11. Dolphin (fish)
  12. Cetaceans (whales and porpoises)
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